

Eric Fishman  
Andrew M. Troop  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
31 West 52nd Street  
New York, NY 10019-6131  
(212) 858-1000 (phone)  
(212) 858-1500 (fax)  
eric.fishman@pillsburylaw.com  
andrew.troop@pillsburylaw.com

*Counsel for InCore Bank AG*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	
FAIRFIELD SENTRY LIMITED, <i>et al.</i> ,	)	Chapter 15 Case
Debtors in Foreign Proceedings.	)	Case No. 10-13164 (SMB)
	)	Jointly Administered
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), <i>et al.</i> ,	)	
Plaintiffs,	)	
-against-	)	Adv. Pro. No. 10-03635
ABN AMRO Schweiz AG, <i>et al.</i> ,	)	(SMB)
Defendants.	)	
This document is also being filed in the lead adversary proceeding, <i>Fairfield Sentry Ltd. (in Liquidation), et al. v. Theodoor GGC Amsterdam, et al.</i> , Adv. Pro. No. 10-03496.	)	

**DEFENDANT-APPELLEE’S COUNTER-STATEMENT  
OF ISSUES TO BE PRESENTED AND COUNTER-DESIGNATION  
OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Defendant-Appellee InCore Bank AG (“InCore”), by and through its undersigned counsel, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, respectfully submits this counter-statement of additional issues to be presented and counter-designation of items to be included in

the record on appeal with respect to the appeal by Plaintiffs in the above-captioned adversary proceeding of the: Stipulated Order Granting In Part And Denying In Part Moving Defendants' Motions To Dismiss And Plaintiffs' Motion For Leave To Amend entered April 15, 2019; the December 6, 2018 Memorandum Decision; and the August 6, 2018 Memorandum Decision and Order Regarding the Defendants' Motions to Dismiss for Want of Jurisdiction (collectively, the "Appealed Decisions and Orders") before the United States Bankruptcy Court for the Southern District Of New York.

**COUNTER-STATEMENT OF  
ADDITIONAL ISSUES TO BE PRESENTED ON APPEAL**

1. All issues designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders, including, without limitation, the issues stated in Plaintiffs' Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 435)<sup>1</sup> and the issues stated in Defendant-Appellees' Counter-Statement of Issues to be Presented and Counter-Designation of Items to be Included in the Record on Appeal (ECF No. 437) filed on June 4, 2019 by Co-Defendant-Appellees BNP Paribas (Suisse) SA, BNP Paribas (Suisse) SA Ex Fortis, BNP Paribas (Suisse) SA Private, Caceis Bank Luxembourg, and HSBC.

**COUNTER-DESIGNATION OF ITEMS TO BE  
INCLUDED IN THE RECORD ON APPEAL<sup>2</sup>**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and

---

<sup>1</sup> Unless otherwise specified, citations to (ECF No. \_\_\_\_ ) refer to docket entries from *Fairfield Sentry Limited, et al. v. ABN AMRO Schweiz AG a/k/a ABN AMRO (Switzerland) AG*, Adv. Pro. No. 10-03635-smb (SMB) (Bankr. S.D.N.Y.).

<sup>2</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

Orders, including, without limitation, the items designated in Plaintiffs' Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 435) and the items designated in Defendant-Appellees' Counter-Statement of Issues to be Presented and Counter-Designation of Items to be Included in the Record on Appeal (ECF No. 437) filed on June 4, 2019 by Co-Defendants-Appellees BNP Paribas (Suisse) SA, BNP Paribas (Suisse) SA Ex Fortis, BNP Paribas (Suisse) SA Private, Caceis Bank Luxembourg, and HSBC.

**RESERVATION OF RIGHTS**

InCore expressly reserves the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders.

Dated: June 4, 2019  
New York, New York

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: /s/ Eric Fishman  
Eric Fishman  
Andrew M. Troop  
31 West 52nd Street  
New York, NY 10019-6131  
(212) 858-1000 (phone)  
(212) 858-1500 (fax)  
eric.fishman@pillsburylaw.com  
andrew.troop@pillsburylaw.com

*Counsel for InCore Bank AG*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on June 4, 2019, a true and correct copy of this document was served by electronic means as listed on the Court's ECF noticing system.

/s/ Eric Fishman  
Eric Fishman